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09/916,792	07/27/2001	Sean James Martin	GB920010043US1	8788

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EXAMINER	
BLAIR, DOUGLAS B	

ART UNIT	PAPER NUMBER
2142	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/916,792	MARTIN ET AL.	
	Examiner	Art Unit	
	Douglas B. Blair	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Claims 1-40 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 5, 7, 10-11, 14-15, 17-18, 22, 24, 27-28, 31-32, 34-35, 36-37, and 39-40 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,823,392 to Cherkasova et al in view of U.S. Patent Number 6,832,255 to Rumsewicz et al.

4. As to claim 1, Cherkasova teaches a method for regulating access by users to a scarce resource, the method comprising the steps of: receiving a request for immediate access the scarce resource (col. 4, lines 20-46); determining, upon receipt of the request, whether the access level for said scarce resource is at a desired maximum (col. 4, lines 20-46); responsive to determining that said access level is currently at a desired maximum, automatically allocating an access slot, which specifies a time period during which the scarce resource may be accessed, said requester (col. 5, lines 6-14); and providing said requester with a notification of their allocated access slot, access being available to said requester at any point in the time period during which said allocated slot is enabled (col. 5, lines 6-14); however Charkasova does not explicitly teach the server automatically allocating a slot.

Rumsewicz teaches a server that is capable of automatically allocating a slot for access (col. 5, line 33-col. 6, line 25).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Charkasova regarding the management of user access to a resource with the teachings of Rumsewicz regarding having the server allocate a slot because having the server select the access slot allows the server to maintain control of the allocation of resources (Rumsewicz, col. 5, line 33-col. 6, line 25).

5. As to claims 18 and 35, they feature an apparatus and program for carrying out the process of claim 1 and are therefore rejected for the same reasons as claim 1.

6. As to claim 36, Cherkasova teaches a method for determining whether a user can be granted access to a scarce resource after an access slot allocated to said user has expired, the method comprising the steps of: tracking interaction with a scarce resource; using the tracked interactions to determine whether the access level is currently at a desired maximum; responsive to determining that said access level is currently at a desired maximum, determining whether the scarce resource can accommodate immediate access by the user of the resource; and responsive to determining that scarce resource can accommodate immediate access, granting said immediate access; however Cherkasova does not explicitly teach using the tracking interations of users whose access slots have already expired.

Rumsewicz teaches a method for tracking interactions of users whose session have expired in order to determine whether or not the user is able to access a resource (col. 5, line 33-col. 6, line 25).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Charkasova regarding the management of user access to a resource with the teachings of Rumsewicz regarding tracking expired users because tracking expired users allows the system to differentiate services to those who are new to the system and those who has been using the system (Rumsewicz, col. 5, line 33-col. 6, line 25).

7. As to claims 39, and 40, they are rejected for the same reasoning as claim 36.

8. As to claim 5, Cherkasova teaches a method wherein responsive to a requesting re-requesting access to a scarce resource, determining whether an access slot is enabled; and responsive to determining that the slot is enabled, granting access (col. 5, lines 6-14, it would be pointless to reserve a resource and not enable the reservation).

9. As to claim 22, it is rejected for the same reasons as claim 5.

10. As to claim 7, Cherkasova teaches diverting a requester to a first server hosting a scarce resource (server 12 in Figure 1).

11. As to claim 24, it is rejected for the same reasons as claim 7.

12. As to claim 10, Cherkasova teaches a method of tracking the number of users currently accessing the scarce resource (col. 4, lines 20-46); and comparing that number with a predetermined maximum value (col. 4, lines 20-46).

13. As to claim 27, it is rejected for the same reasons as claim 10.

14. As to claim 11, the method for accommodating a late request is identical to the method claimed in claim 36 and is therefore rejected for the same reasons as claim 36.

As to claim 28, it is rejected for the same reasons as claim 11.

15. As to claim 14, Cherkasova teaches determining that a requester's slot is at an end; and refusing access to the scarce resource by the requester (col. 6, lines 21-23).

16. As to claims 15-17, they correspond to the same method performed in claim 1 and are therefore rejected for the same reason as claim 1. Any adjective can be used to describe the session but it is still the same method being performed to grant access to the request.

17. As to claims 31-32 and 34, they are rejected for the same reasons as claims 14-15 and 17.

18. As to claim 37, Cherkasova teaches a method wherein the request for access is a request for continued access, said request being the only interaction tracked (col. 4, lines 20-46).

19. Claims 2-3, 6, 19-20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,823,392 to Cherkasova et al in view of U.S. Patent Number 6,832,255 to Rumsewicz et al. in further view of U.S. Patent Application Publication Number 2002/0083342 by Webb et al..

20. As to claim 2, the Rumsewicz-Cherkasova combination teaches the method of claim 1 including sending a cookie to client with access information (col. 6, lines 4-14); however the Rumsewicz-Cherkasova combination does not explicitly teach the use of a ticket comprising access slot information.

Webb teaches a method of issuing a requestor with a ticket comprising access slot information at least part of said access slot information being used by said requester to determine when said allocated slot is enabled (paragraph 48).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding the regulation of access to a resource with the teachings of Webb regarding the use of

a ticket because the ticket provides a method for the system to authenticate the use of the time slot (Webb, paragraph 48).

21. As to claim 19, it is rejected for the same reasons as claim 2.

22. As to claims 3 and 20, Cherkasova teaches access slot information comprising a start time for the access slot and an expiry time for the access slot (col. 6, lines 15-22).

23. As to claims 6 and 23, they feature similar limitations to claims 2 and 3 and are rejected for the same reasons as claims 2 and 3.

24. Claims 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,823,392 to Cherkasova et al in view of U.S. Patent Number 6,832,255 to Rumsewicz et al. in further view of U.S. Patent Application Publication Number 2002/0059436 by Kubo.

25. As to claim 4, the Rumsewicz-Cherkasova combination teaches the method of claim 1; however the Rumsewicz-Cherkasova combination does not explicitly teach downloading an executable onto the requestor's computer.

Kubo teaches downloading an executable program for preventing the requester from attempting to access a scarce resource until said requester's access slot has been enabled (paragraph 42, the applet).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding the regulation of access to a resource with the teachings of Kubo regarding the downloading of an applet because downloading an applet would reduce the amount of work performed by the server.

26. As to claim 21, it is rejected for the same reasons as claim 4.

27. Claims 12-13, 16, 29-30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,823,392 to Cherkasova et al in view of U.S. Patent Number 6,832,255 to Rumsewicz et al. in further view of U.S. Patent Number 6,389,028 to Bondarenko et al..

28. As to claim 12, the Rumsewicz-Cherkasova combination teaches the method of claim 1; however the Rumsewicz-Cherkasova combination does not explicitly teach determining the average time spent accessing the resource and determining the length of access slots based on the average time.

Bondarenko teaches determining the average time spent accessing a scarce resource; and determining the length of the subsequent access slots based on the average time (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding the regulation of access to a resource with the teachings of Bondarenko regarding determining the average time spent accessing the resource and determining the length of access slots based on the average time because changing the length of the time slots allows for more efficient resource utilization (Bondarenko, col. 9, lines 18-54).

29. As to claim 29, it is rejected for the same reason as claim 12.

30. As to claim 13, the Rumsewicz-Cherkasova combination teaches the method of claim 1; however the Rumsewicz-Cherkasova combination does not explicitly teach chain of resources.

Bondarenko teaches determining that said scarce resource comprises a chain of resources (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding the regulation of access to a resource with the teachings of Bondarenko regarding a chain of resources because resources are sometimes distributed across the Internet (Bondarenko, col. 9, lines 18-54).

31. As to claim 30, it is rejected for the same reasons as claim 13.

32. As to claims 16 and 33, Bondarenko teaches a method wherein the access slot only applies to one of the resources in the chain and any other resource in said chain is accessible whether or not said slot is enabled (col. 9, lines 18-54).

33. As to claim 36, the Rumsewicz-Cherkasova combination teaches the method of claim 36; however the Rumsewicz-Cherkasova combination does not explicitly teach finding a resource in a chain of resources chain of resources.

Bondarenko teaches determining the position in a chain of resources (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding the regulation of access to a resource with the teachings of Bondarenko regarding a chain of resources because resources are sometimes distributed across the Internet (Bondarenko, col. 9, lines 18-54).

34. Claims 8-9 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,823,392 to Cherkasova et al in view of U.S. Patent Number 6,832,255 to Rumsewicz et al. in further view of U.S. Patent Number 6,011,537 to Slotznick.

35. As to claims 8-9, the Rumsewicz-Cherkasova combination does not explicitly teach diverting a request to a second server and providing the requester with entertainment while the resource is not available.

Slotznick teaches diverting a request to a second server and providing the requester with entertainment while the resource is not available (col. 24, line 9-49).

It would have been obvious to one of ordinary skill in the Computer Netowrking art at the time of the invention to combine the teachings of the Rumsewicz-Cherkasova combination regarding allocating access to a resource with the teachings of Slotznick regarding the provision of entertainment to a waiting user because entertainment reduces the perceived wait time (Slotznick, col. 1, line 60-col. 2, line 11).

36. As to claims 25 and 26, they are rejected for the same reasons as claims 8-9.

Response to Arguments

37. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is (571) 272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair
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SUPERVISORY PATENT EXAMINER